

United States District Court

E-FILING

NORTHERN

DISTRICT OF

FILED  
CALIFORNIA

2008 JUL -7 P 2:11

UNITED STATES OF AMERICA

V.

Martin TORRES-Martinez

RICHARD W. WIEKING  
CLERK  
U.S. DISTRICT COURT  
NO. DIST. OF CA. S.J.

CRIMINAL COMPLAINT

08-70409

H-1

CASE NUMBER:

(Name and Address of Defendant)

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On a date unknown but no later than, June 23, 2008, in Santa Clara County in the Northern District of California defendant(s)

Unlawfully re-entered and was found in the United States after deportation, without the permission of the Attorney General

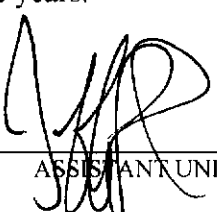
in violation of Title 8 United States Code, Section(s) 1326  
I further state that I am a(n) Deportation Officer and that this complaint is based on the following  
facts:  
Official Title

SEE ATTACHED AFFIDAVIT

PENALTIES: \$250,000.00 fine, twenty years imprisonment and \$100.00 special assessment fee and a Term of Supervised Release up to three years.

Requested bail: Issue no bail warrant.

APPROVED AS TO FORM:

  
ASSISTANT UNITED STATES ATTORNEY

Continued on the attached sheet and made a part hereof: ☒ Yes ☐ No

Sworn to before me and subscribed in my presence,

7/7/08  
Date

at

San Jose, California  
City and State

Howard R. Lloyd  
UNITED STATES MAGISTRATE JUDGE  
Name & Title of Judicial Officer

  
Signature of Judicial Officer

**RE:** Martin TORRES-Martinez

A 76 335 960

I am a Deportation Officer of the United States Department of Homeland Security, Immigration and Customs Enforcement (ICE). I have been employed by this agency, U.S. Customs & Border Protection and the former Immigration and Naturalization Service (INS), since October 1, 2002. I am currently assigned to the Criminal Alien Program at the San Jose, California Sub-Office. In such capacity, I have reviewed the official immigration "A-File" relating to the above named defendant, which attests to the following:

- (1) The DEFENDANT Martin TORRES-Martinez (AKA: Alfredo OCHOA-Sanchez), is a 42 year-old single male whose DOB is currently understood to be August 9, 1969. He is a citizen and native of Mexico as substantiated by a statements made to that effect by the DEFENDANT on both November 2, 1998 and June 24, 2008;
- (2) The DEFENDANT has been assigned Alien Registration number of A 76 335 960, FBI number of 676132HA7 and California Criminal State ID Number of A08618606;
- (3) On June 9, 1994, the DEFENDANT was convicted in the Superior Court of California, County of Santa Clara, for the offense of: USE AND UNDER THE INFLUENCE OF A CONTROLLED SUBSTANCE, in violation of California Health and Safety Code, Section 11550 *and* POSSESSION AND PURCHASE FOR SALE A NARCOTIC CONTROLLED SUBSTANCE, violation of California Health and Safety Code, Section 11351, a felony, and sentenced to (9) months in jail. This offense is defined as an aggravated felony under Title 8, United States Code, Section 1101(a)(43)(B);
- (4) On March 27, 1996, the DEFENDANT was convicted in the Superior Court of California, County of Santa Clara, for the offense of: BATTERY, a misdemeanor, in violation of California Penal Code Section 242/243 and sentenced to (12) days in jail;
- (5) On January 22, 1997, the DEFENDANT was convicted in the Superior Court of California, County of Santa Clara, for the offense of: USE AND UNDER THE INFLUENCE OF A CONTROLLED SUBSTANCE, in violation of California Health and Safety Code, Section 11550 *and* POSSESSION AND PURCHASE FOR SALE A NARCOTIC CONTROLLED SUBSTANCE, violation of California Health and Safety Code, Section 11351, a felony, and sentenced to (3) years in jail. This offense is defined as an aggravated felony under Title 8, United States Code, Section 1101(a)(43)(B);
- (6) On July 14, 1998, the DEFENDANT was determined to be unlawfully present in the United States by the INS District Director San Diego, California, and ordered removed from the United States to Mexico;

RE: Martin TORRES-Martinez

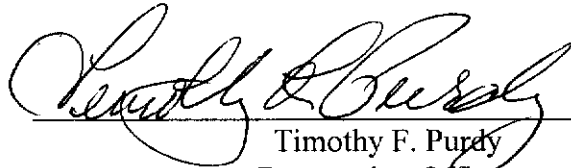
A 76 335 960

- (7) On November 2, 1998, the DEFENDANT was determined to be unlawfully present in the United States by the INS Assistant Area Port Director Calexico, California Port of Entry, and ordered removed from the United States to Mexico;
- (8) On November 8, 2001, the DEFENDANT was convicted in the Superior Court of California/County of Santa Clara, for the offenses of: OBSTRUCTING A PUBLIC OFFICER, in violation of California Penal Code Section and DUI ALCOHOL AND DRUGS, in violation of California Vehicle Code, Section 23152(A), both of which were misdemeanor violations for which the DEFENDANT was sentenced to (30) days in jail;
- (9) On June 4, 2008, the DEFENDANT was convicted in the Superior Court of California/County of Santa Clara, for the offenses of: DUI ALCOHOL AND DRUGS, in violation of California Vehicle Code, Section 23152(A) *and* DUI W/ALCHOHOL W/ PRIORS, a misdemeanor, for which the DEFENDANT was sentenced to (30) days in jail;
- (10) The DEFENDANT, on a date unknown, but no later than June 23, 2008, in Santa Clara County in the Northern District of California, was found to be unlawfully present in the United States, after prior arrests and removals/deportations, without the permission of the Attorney General or the Secretary of Homeland Security, in violation of Title 8, Section 1326. On June 24 2008, the DEFENDANT was interviewed by (IEA) Oidem at the Santa Clara County Jail, San Jose, CA, and during the interview, the DEFENDANT was read his **Miranda** rights in the English and Spanish languages. The DEFENDANT declined to invoke his **Miranda** rights and provided a written sworn statement attesting to his alienage, prior removals/deportations from the United States and previous convictions while in the United States;
- (11) The DEFENDANT'S official A-File does not contain any record or indication that he either requested or received permission from the Secretary of the Department of Homeland Security or the Attorney General of the United States to reenter the United States;
- (12) On June 24, 2008, the DEFENDANT'S fingerprints were taken as part of the standard booking procedures. A latent print examiner at the Santa Clara County Sheriff's Department compared those fingerprints with fingerprints of Martin TORRES-Martinez (AKA: Alfredo OCHOA-Sanchez) (A76 335 960) on official documents in his Administrative File. The latent print examiner determined that the fingerprints were identical and related to Martin TORRES-Martinez (AKA: Alfredo OCHOA-Sanchez) (A76 335 960);

RE: Martin TORRES-Martinez

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- (13) Based on the above stated information, this Officer believes there is sufficient probable cause that the Defendant is present within the United States in violation of Title 8, United States Code, Section 1326.

  
\_\_\_\_\_  
Timothy F. Purdy  
Deportation Officer  
Immigration and Customs Enforcement

Subscribed and sworn to before me this 7 day of July, 2008

  
\_\_\_\_\_  
Howard R. Lloyd  
UNITED STATES MAGISTRATE JUDGE